

July 10, 2019



Talbot County Planning Commission
Final Decision Summary

Wednesday, June 5, 2019 at 9:00 a.m.

Bradley Meeting Room

11 N. Washington Street, Easton, Maryland

Attendance:

Commission Members:

Paul Spies, Chairman
Phillip "Chip" Cuncell, Vice Chairman
William Boicourt (absent)
Michael Strannahan

Staff:

Mary Kay Verdery, Planning Officer
Miguel Salinas, Assistant Planning Officer
Brennan Tarleton, Planner I
Carole Sellman, Recording Secretary

1. Call to Order—Commissioner Spies called the meeting to order at 9:00 a.m.

Commissioner Spies explained there were only three (3) Commissioners present. The Bylaws stated that a minimum of three (3) positive votes are required for an approval. If any applicant chooses, they can withdraw without penalty and come back at a later date.

Ms. Verdery stated the Council hoped to have a new member appointed prior to the next meeting.

2. Decision Summary Review—May 1, 2019—The Commission noted the following corrections to the draft decision summary:

Commissioner Cuncell moved to approve the draft Planning Commission Decision Summary for May 1, 2019, as submitted. Commissioner Strannahan seconded the motion. The motion carried unanimously (3-0).

3. Old Business—None.

4. New Business

- a. Special Exception—John Wesley Preservation Society, Inc., c/o Jim Reed #19-1695—4957 Evergreen Road, Oxford, Maryland (map 53, grid 4, parcel 75, zoned RC), Paul Rogers, RAUCH, Inc., Agent.

Mr. Tarleton presented the staff report for the recommendation to the Board of Appeals for a Special Exception to establish a community and cultural facilities use on a property within the Rural Conservation (RC) zoning district. In accordance with *Talbot County Code* §190-56.1B.1., before the Board of Appeals makes a decision on a Special Exception they shall first consider the recommendation from the Planning Commission.

Should the Planning Commission elect to recommend approval to the Board of Appeals, staff recommends the following condition:

1. The applicant shall take all of the required steps and acquire all necessary approvals required for a Minor Site Plan and Minor Revision Plat as spelled out in the *Talbot County Code*.

Paul Rogers, RAUCH, Inc., presented the special exception and three variances for the John Wesley Preservation Society, Inc. Jim Reed who represents the Society will speak regarding the volume of visitors and use of the property as it now stands.

Commissioner Spies clarified that the Commission would not be hearing testimony on the variances. Mr. Salinas stated the Commission might hear information regarding the variances as part of the testimony for the special exception, but the Commission was only ruling for a recommendation on the special exception. Mr. Strannahan questioned how a van got to the ADA parking space. Mr. Rogers stated that the State Highway established the direction of traffic.

Jim Reed, a member of the Board, stated the John Wesley Preservation Society does not have any employees. There is a local Board of Directors, which is all volunteers. Presently we have the Church itself open on Saturdays for about four hours and typically have 6-8 people for that period. In the past, they have had events. There was a wedding there four years ago. With the current parking capacity and the privies, they have already put in place a plan that they could have as many as 40-45 people attending. They have worked out an arrangement with the Oxford Community Center for parking and use a shuttle service. There would be port-a-pots available on-site. Mr. Reed stated they do not anticipate that happening very often. He figures the maximum number on-site would be 12 people.

Mr. Salinas stated for events like that they would have to submit an application for a temporary use certificate. With that application, they would provide a site plan. They could have up to six events a year and the application would be reviewed for parking and other issues by Planning and Zoning, Environmental Health and any other department that is applicable.

Mr. Reed stated they made the church available to the local quilters to display antique quilts during the Quilt Show in Oxford. They had 20 visitors during six hours.

Commissioner Councell stated the application was very thorough.

Commissioner Spies asked for public comments; none was made.

101
102 **Commissioner Councill moved to recommend the Board of Appeals approve**
103 **the special exception to establish a community and cultural facilities use for**
104 **John Wesley Preservation Society, Inc., with all staff conditions being**
105 **complied with; Commissioner Strannahan seconded. The Motion carried**
106 **unanimously (3-0).**
107

- 108 b. Resolution No. 272 – A Resolution to amend the Talbot County Comprehensive
109 Water and Sewer Plan to add or modify the following Capital Projects for Talbot
110 County Fiscal Year 2020: add new capital project in the amount of \$22.32 Million
111 for sewer extension to Bozman and Neavitt; add new capital project in the amount
112 of \$6 Million for individual pump station and major pump station improvements
113 in the Region I (Unionville, Tunis Mills, and Copperville) and Region II (Royal
114 Oak, Newcomb, Bellevue, and St. Michaels) sewer service areas; add new capital
115 project in the amount of \$2 Million for sewer extension from the Region V
116 Tilghman Island Wastewater Treatment Plant to serve the Villages of Bar Neck
117 and Fairbank; modify existing capital project by adding up to \$2 Million for
118 Phase V road and sewer improvements to the Region II St. Michaels Wastewater
119 Treatment Plant; add a new capital project in the amount of \$1.5 Million for
120 design of a sewer system to serve the Ferry Point Marina Area; add new capital
121 project in the amount of \$550,000 for belt filter press system replacement at the
122 Region II St. Michaels Wastewater Treatment Plant; add a new capital project in
123 the amount of \$250,000 for engineering, design, and permitting to support
124 extension of sewer from the Town of Easton Wastewater Treatment Plant to the
125 Talbot County Community Center; and, add new capital project in the amount of
126 \$150,000 for a wastewater feasibility study at the Region V Tilghman Island
127 Wastewater Treatment Plant
128

129 Mr. Clarke stated that Resolution 272 would need to be found consistent with the
130 Comprehensive Plan and that the Commission would need to recommend the
131 County Council adopt Resolution 272. Resolution 272 is associated with capital
132 projects. They have applied with the Maryland Department of the Environment
133 (MDE) for funding to extend sewer to Bozman and Neavitt. He stated MDE has
134 published their intended use plan for their projects and two of our projects are on
135 the intended use plan, with the number one priority at this point in time being to
136 fund the Bozman-Neavit project. The County was allocated seventy-five percent
137 grant funding and 25 percent loan funding. Resolution 272 also incorporates a \$6
138 Million dollar project for pump station improvements for Royal Oak, Newcomb
139 and Bellevue as well as evaluate the individual pumps we have. The pumps were
140 actually installed in 1993 and we are evaluating measures to improve stations and
141 individual pumps.
142

143 In addition to that, we also have sewer extensions we are looking at for Region V,
144 Tilghman for Bar Neck and Fairbank. Due to environmental health, there is a
145 need for sewer in that area. In addition to that there is work going on in St.
146 Michaels, a sewer collection system. He stated they received roughly \$5.2

147 Million, seventy-five percent grant and about \$1.2 Million in loan. They are
148 seeking another seventy-five percent grant funding bringing that project to about
149 \$6.8 Million. In addition to that, we also have a Belt Filter Press in Region II that
150 is well over 40 years old which we need to replace. We need to complete a
151 Region V feasibility study evaluation to look at Tilghman Island treatment plant
152 and stabilization. We have looked at how to extend sewer out to areas like Bar
153 Neck, Fairbank as well as Sherwood, Deep Harbor area, as well as Whitman, etc.
154 Through discussions with MDE one option is to upgrade Tilghman with ENR
155 which is Enhance Nutrient Removal technologies, and basically that would take
156 reduce the total nitrogen currently being discharged at 18-19 milligrams per liter
157 into the Bay. ENR would drop us down to 3 milligrams per liter. Total
158 phosphorous would be reduced from probably be 2-4 milligrams per liter (mg/l) to
159 0.3 mg/l or less. The other thing we looked at is the possibility of sea level rise
160 and impacts to the properties. In addition, we looked at connecting the Region V
161 plant with the Region II Wastewater Treatment Plant.
162

163 Commissioner Spies asked, of the 600 homes, how many are failing or poorly
164 performing? Mr. Clarke stated in the Ground Penetration Report technically all of
165 the systems are directly polluting the system aquifer. The property owners are
166 going to be reluctant to say they have failing septic systems. Many do everything
167 to save water, such as discharging their clothes washer into their yard instead of
168 their septic system.
169

170 Commissioner Spies asked, of the homes being connected, is the grant money for
171 County infrastructure or to connect the homes? Mr. Clarke stated it is to connect
172 the sewer to the house. Commissioner Spies asked if it is for 100 percent
173 coverage. Mr. Clarke stated they are looking into that now. They are looking into
174 an up-front payment or a possible minimal out-of-pocket monthly payout, maybe
175 over 30 years.
176

177 Commissioner Spies asked if it would increase population potential in that area.
178 Mr. Clarke stated Resolution 250 looks at the Lots and if a lot has the right to
179 subdivide, through priority funding area. If they had a right related to zoning, they
180 would have a right to connect to the sewer system. However, they would not have
181 a right to the grant funding. That is something he stated they would have to sit
182 down with the State to discuss.
183

184 Commissioner Spies asked Ms. Verdery if she knew approximately how many
185 lots this might affect. Ms. Verdery stated we do not always know because we do
186 not know how many lots have deed parcels, or how many have been subdivided in
187 the past. It is difficult without a lot of research. Commissioner Spies asked for a
188 ballpark figure. Mr. Clarke stated that technically it is less than ten percent. There
189 were just a handful of properties that were not developed or unimproved.
190

191 Ms. Verdery stated it is the base zoning density the Commission recommended
192 and the County Council has approved.

Mr. Clarke stated that one of the advantages is that we are taking almost a thousand septic systems off line and we are no longer discharging that nitrogen into the groundwater. It helps the County with the watershed implementation plan, and it is a very aggressive program.

Mr. Clarke stated the feasibility study is going to be specific to Region V. The feasibility study they are looking at for Tilghman will be very much like the project they are looking at today. The preliminary analysis is looking at the current usage is 100,000 gallons per day. We are probably looking at an additional capacity of 150,000-250,000 gallons a day.

Commissioner Councill stated this is a huge win for the County. He asked if the Commission could be copied on the agenda for the Public Works Advisory Board to keep up with these items. Maybe even, set up a workshop to update the Commission on how to deal with the impacts. Ms. Verdery stated the Advisory Board meets on the same day as the Planning Commission, though in the afternoon. Ms. Verdery stated prior to the Zoning Ordinance update if you had public sewer the density was four units per acre and without public sewer, it was one unit per acre. It is now one unit per acre with or without public sewer recognizing the distinction that those villages that had the public sewer had more small lots. Therefore in the Village Hamlet and the Village Mixed we made the minimum lot sizes smaller, but the density is still one unit per acre with or without sewer.

Mr. Salinas asked if Wastewater Treatment Plant V in Tilghman is being impacted by sea level rise. Mr. Clarke stated they have had preliminary discussions with representatives at MDE. Talbot County uses a low-pressure sewer system. It is a cheaper process and it actually gives us the ability to abandon if a house is lost due to sea level rise.

Commissioner Spies asked for public comment; none were made.

Commissioner Councill moved to recommend the County Council approve Resolution No. 272. The Commission found the Resolution No. 272 is consistent with the Comprehensive Plan. Commissioner Strannahan seconded the motion. The motion carried unanimously (3-0).

- c. A Resolution to amend the Talbot County Comprehensive Water and Sewer Plan to add the following Town of Easton capital project in the amount of \$2,806,000 for the relocation of the Windmill Wastewater Pump Station; and, add a new capital project in the amount of \$2,267,000 for the replacement of the Windmill Wastewater Force Main

Mr. Clarke stated that Easton Utilities is looking into improving their Windmill Wastewater Facility force main.

Commissioner Spies asked for public comment; none were made.

Commissioner Councill moved to recommend the County Council approve Resolution No. 273 – a Resolution to amend Talbot County Comprehensive Water and Sewer Plan to add the following Town of Easton Capital Projects for Fiscal Year 2020; add a new capital project in the amount of \$2,806,000 for the relocation of the windmill wastewater pump station; and, add a new capital project in the amount of \$2,267,000 for the replacement of the windmill wastewater force main. The Commission found Resolution No. 273 is consistent with the Comprehensive Plan. Commissioner Strannahan seconded the motion. The motion carried unanimously (3-0).

Mr. Clarke updated the Commission on the The Bozman-Neavitt project. MDE allocated \$23 Million, based on that we will receive \$5.7 Million for loans for low-income families. The funds will not be available until July of 2020. He stated they would put out an RFP for design services. For the actual sewer to Bozman and Neavitt they are looking at a step system like that used in Queen Anne County. This type system has the ability to pump approximately eight miles. We do not have to buy secure land for a pump station. In this situation, the flow will pump flow from Neavitt all way to St. Michaels. We are hoping to start construction in 2020 and have everyone hooked in within two years after that.

d. MALPF applications to the Foundation for the 2020 easement purchases

Ms. Verdery explained the next project was a recommendation from Martin Sokolich. Fortunately, Mr. Councill is part of that MALPF recommendation and those applications so he would need to recuse himself. However, unfortunately there are only three of you here. We are hoping next week this will be before the Agricultural Advisory Board. We would like to have Mr. Spies, Mr. Strannahan and Mr. Boicourt attend the meeting with the Agricultural Advisory Board. This has not been confirmed yet, but sometime between June 10th and June 14th we will organize the meeting and advertise on our website. There can be a recommendation to postpone this meeting until a date when the Agricultural Advisory Board can meet and at that time you will hear the applications. Commissioner Spies asked if the meeting could be done by call. Ms. Verdery stated that if Mr. Boicourt needed to join in by call that could be organized. She stated Martin would be in contact with the Commission regarding the date and time of the Meeting.

Commissioner Strannahan moved to postpone the approval and recommendation of the MALPF applications to a time until the Agricultural Advisory Board will have a meeting. Commissioner Councill seconded the motion. The motion carried unanimously (3-0).

- e. Bill No. 1412 – A Bill to amend Chapter 190 of the Talbot County Code Zoning, Subdivision and Land Development) to revise Cottage Industry truck weight limits on certain roadways

Ms. Verdery stated a brief overview of these Bills had been presented to the Commission prior to going to the Council. As we moved through the Zoning Ordinance update, we found a few things needing minor amendment updates. These Bills will help make those changes. These are not major amendments.

For Bill No. 1412, the Cottage Industry we want to revise the truck limits on certain roadways and amend Section 190-33.5 to delete the vehicle weight limit restriction for cottage industry use located on state arterial roadways and exclude employee vehicles from the truck trip count.

Commissioner Spies asked for public comment; none were made.

Commissioner Cuncell recommended the County Council approve Bill No. 1412, a Bill to amend Chapter 190 of the *Talbot County Code* to revise cottage industry truck weight limits on certain roadways. Commissioner Strannahan seconded. The Motion carried unanimously (3-0).

- f. Bill No. 1413 – A Bill to amend Chapter 190 of the Talbot County Code (Zoning, Subdivision and Land Development) to establish that the Building Inspector conducting Short-Term Rental inspections must be International Code Council certified; to clarify the process for providing notice of new license hearings; to make the definition of “Short-Term Rental” consistent with the operating guidelines for Short-Term Rentals set forth in Section 190-33.20, which provide for a three night minimum stay; and, to make certain grammatical changes for ease of reading

Ms. Verdery presented Bill No. 1413 to clarify Short-term rentals inspection certifications and mailing requirements and definitions. Section 33.20.C.9 clarify that a building inspector for short-term rentals shall be International Code Council (ICC) Certified. In Section 190-63 the second mailing of a meeting notice may be via first class mail with the filing of a certificate of service. In Section 190-78, the definition of a short-term rental should be amended to note there is a minimum three night stay. The Council has concerns that the first class mail should have proof of a certificate of mailing. The staff's concern is that the first mailing that is sent out requires that you send the certified mail, requires the return receipt and the signature. That is the mail that says I am doing a short-term rental in your neighborhood and puts you on notice. It gives you the basic information about what I am doing. This second notice says this is the date of my Review Board Meeting. You have already been put on notice that the applicant has applied and you can go on-line to find all of this information, so basically you could find this information without this second mailing. It is a friendly reminder. We are having the applicant send it anyway to say here is the date of the Short Term Rental

Board Meeting. But we don't want them to have to go through the certified mail process. However, the Council's concern is if you send it without a return receipt or signature there is no proof that you sent it. Commissioner Spies stated what if you send it and you do not get three signatures back, everything is still going forth the same way. Ms. Verdery stated we require they provide us with a certificate of service that they sent the information and what the Council wants is delivery confirmation. Commissioner Council asks what happens in the case of an absentee landowner. Mr. Salinas stated the applicants go to the Short-Term Rental Review Board and after their decision there are provisions for appeal for any property owner or a group of property owners who are aggrieved by the decision. Ms. Verdery asked the Commission if the language for the delivery confirmation should be inserted. The Commission felt certified mail for the second notice was overly burdensome.

Commissioner Council asked about the discussion of three nights instead of one night. Ms. Verdery stated the text of short-term requirements was already amended to extend the overnight stay to three night minimum, but the definition of short-term rental, was not changed.

Commissioner Spies asked for public comment; none were made.

Commissioner Council moved to recommend the County Council approve Bill No. 1413, a Bill to amend Chapter 190 of the *Talbot County Code*, that the second notification would be acceptable via first class mail as certified mail is overly burdensome; Commissioner Strannahan seconded the motion. The motion carried unanimously (3-0).

- g. Bill No. 1414 - A Bill to amend Chapter 190 of the Talbot County Code (Zoning Subdivision and Land Development) to clarify Site Plan standards for parking, driveways, and approvals for change in use

Ms. Verdery presented Bill No. 1414 to clarify site plan standards for parking, driveways, and approvals for change in use. Add standards for parking surface in Section 190-41.5. Strike the prohibited exterior uses in Section 190-60.2.C.1 as they are limited by the cumulative total of 500 sq. ft. or less listed in number 2., and amend the definition as there are three (3) types of site plans; major, minor and administrative. The first section allowed no exterior use alteration, then No. 2 allowed you to expand the new or accessory use up to a total of 500 sq. ft. We thought it was best to stick with the up to 500 sq. ft.

Commissioner Spies asked for public comment; none were made.

Commissioner Council recommended the County Council approve Bill No. 1414, a Bill to amend Chapter 190 of the *Talbot County Code*, to clarify site plan standards for parking, driveways and approvals for change in use.

375 **Commissioner Strannahan seconded the Motion. The Motion carried**
376 **unanimously (3-0).**
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- 378 h. Bill No. 1415 - A Bill to amend Chapter 190 of the Talbot County Code (Zoning
379 Subdivision and Land Development) to authorize vertical expansion of
380 nonconforming buildings as to setbacks without a variance and as to lot coverage
381 where certain criteria are met, including that for a building within a setback it is
382 no closer to the property line than the existing walls
383

384 Ms. Verdery presented Bill No. 1415 for nonconforming buildings in the
385 setbacks. We currently allow for vertical expansion of nonconforming structures
386 in the shoreline development buffer. This will allow for the same vertical
387 expansion in other property line setbacks such as side yard setbacks. Since we
388 already allowed it in the Shoreline Development Buffer, we thought it would be
389 appropriate to allow for those type of vertical expansions in the side yard setbacks
390 instead of increasing the nonconformity.
391

392 Commissioner Spies asked if the Commission would still have the ability to
393 review the appropriateness of the expansion. Ms. Verdery stated if approved, this
394 process would allow for the vertical expansion. Mr. Salinas stated in the shoreline
395 development buffer your wall still could not go any closer in the buffer towards
396 the shoreline. Commissioner Strannahan asked if it would be possible to have an
397 approval on a case-by-case basis. Commissioner Spies stated he is always upset to
398 have to make someone take time and money to have to come in and we pass it in a
399 few minutes. Commissioner Councill stated the ability for someone to build a
400 forty-foot structure in the side yard setback could cause a problem. Ms. Verdery
401 asked would it be any benefit in limiting the overall height of the nonconforming
402 structure. The nonconforming portion of the structure would have a cap height or
403 size. Commissioner Councill questioned could it be done without variance as
404 long as the adjoining property owner agrees with it? Ms. Verdery asked who
405 would be the adjoining property owner if it is along a roadway. Commissioner
406 Spies asked how many we get? He asked if there was any way to change the
407 language where if the Planning Officer were not comfortable it would come to the
408 Commission.
409

410 Mr. Tarleton stated it would be able to go through the Minor Variance process
411 with Planning Director approval and then the Planning Director can take an
412 application to the Planning Commission, if desired.
413

414 Commissioner Spies stated the Planning Officer would be able to approve the
415 variance and have the ability to bring it forward to the Planning Commission if
416 there are any issues or concerns about impacts that addresses his concerns.
417

418 Commissioner Spies asked for public comment; none were made.
419

Commissioner Councill moved to recommend County Council modify Bill No. 1415, a Bill to amend Chapter 190 of the *Talbot County Code* for vertical expansion of nonconforming structures be included in the Minor Variance process. Commissioner Strannahan seconded the motion. The motion carried unanimously (3-0).

- i. Bill No. 1416 - A Bill to amend Chapter 190 of the Talbot County Code (Zoning Subdivision and Land Development) to add “Marine Equipment Services and Repair” to the Table of Land Uses and to establish minimum parking requirements for such use

Ms. Verdery presented Bill No. 1416 a bill to add marine equipment services and repair to the table of land uses. Staff found that the land use of Marine Equipment Service and Repair was inadvertently omitted from Bill No. 1401. The use as shown in Section 190-52.2. Table IV.1. Table of Land Uses and Table V-6. Off-Street Parking Requirements are consistent with the previous Zoning Code.

Commissioner Spies asked for public comment; none were made.

Commissioner Councill recommended the County Council approve Bill No. 1416, a Bill to amend Chapter 190 of the *Talbot County Code*, and to establish minimum parking requirements for such use. Commissioner Strannahan seconded the motion. The motion carried unanimously (3-0).

- j. Bill No. 1417 - A Bill to amend Chapter 190 of the Talbot County Code (Zoning Subdivision and Land Development) to amend the definition of “Contracting, Building Trade and Construction” to include “Outdoor Maintenance and Landscape Services” and to eliminate the definition of “Contracting, Property Maintenance and Landscape”

Ms. Verdery presented Bill No. 1417, a bill to include outdoor maintenance and landscape services under building trade and construction contracting. The County Council chose to strike the stand alone land use of “property maintenance and landscape contracting” from the table of land uses during the adoption process of Bill No. 1401. Staff is suggesting that this use be incorporated into the existing trade/contracting use and the stand alone definition be deleted.

Commissioner Spies asked for public comment.

Commissioner Councill recommended County Council approve Bill No. 1417, a Bill to amend Chapter 190 of the *Talbot County Code* to amend the definition of “Contract building, trade and construction” to include “Contracting, property maintenance and landscaping”. Commissioner Strannahan seconded the motion. The motion carried unanimously (3-0).

5. Discussions Items

- 466 a. Ms. Verdery confirmed that the Commissioner's had received the notice
467 regarding the Commission Training in Ocean City, Maryland.
468
- 469 b. Mr. Salinas informed the Commission that Mr. Tarleton was leaving us tomorrow.
470 It is sad for us and good for him. He indicated that Mr. Tarleton will be working
471 for Queen Anne's County.
472
- 473 c. Ms. Verdery stated they have completed all of the interviews for the Planning
474 Commission position and hope to have an appointment at the July meeting.
475

476 **6. Staff Matters**

477
478 **7. WorkSessions**

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480 **8. Commission Matters**

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482 **9. Adjournment**—Commissioner Spies adjourned the meeting at 10:27 a.m.
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